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10/729,000	12/05/2003	John M. Guynn	15257.3.2	9102

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John M. Guynn
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

EXAMINER

VALENTI, ANDREA M

ART UNIT	PAPER NUMBER
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3643

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/729,000	Applicant(s) GUYNN, JOHN M.	
	Examiner Andrea M. Valenti	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 16-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28 is/are allowed.
- 6) ☒ Claim(s) 1-13, 16-27 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 5 is objected to because of the following informalities:

Claim 5, line 3, "the attachment means" should be --the corset or harness--

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 10-13, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,308,629 to Freemon.

Regarding Claims 10, 12 and 16, Freemon teaches a restraint device for use in holding or restraining a child (Freemon abstract second line and Col. 3 line 21-36) in a desired position and in a balanced fashion with a single hand of a person desiring to restrain the child, the restraint device ***consisting essentially of*** (see MPEP 211.03, absent a clear indication in the specification or claims of what basic and novel characteristics actually are "consisting essentially of" will be construed as "comprising of"; applicant has not shown that the introduction of additional steps or components would materially change the characteristic of applicant's invention): a flexible corset or harness (Freemon Fig. 2 #12, 16, 18) sized and configured so as to wrap around at least a portion of a child's body, wherein the corset or harness comprises a plurality of

flexible straps (Freeman Fig.3 #16 and 18) that are laterally spaced apart that wrap at least partially around the child's torso but that expose at least a portion of the child's body between the flexible straps *so as to permit washing of the exposed portion of the child's body between the flexible straps* (functional language, the structural device of Freeman is capable of this function); at least one fastening device (Freeman Fig. 3 #14) connected to the corset or harness that permits selective fastening and unfastening of the corset or harness around at least a portion of the child's body; and a single handle (Freeman Fig. 3 and 4 #20), extending laterally away from the flexible corset and configured to be gripped by a person's hand, permanently attached to a location on the corset or harness in a manner so that the handle is positioned next to the child's body or clothing adjacent to the spine, sternum, stomach or chest of the child's body when the restraint device is in use, so that a hand gripping the handle remains close to the child's body when the restraint device is in use, and so that at least a portion of the hand gripping the handle is disposed between at least a portion of the handle and the child's body adjacent to a central balancing plane of the child's body passing through the child's spine or sternum during use.

Regarding Claim 11, Freeman teaches the handle comprising a loop having an opening that easily accommodates insertion of at least three of a person's fingers therethrough while gripping the loop (Freeman Fig. 3 and 4 #14 and Col. 3 line 21-36).

Regarding Claim 13, Freeman teaches a fabric i.e. textile material (Freeman Fig. 8 #12).

Regarding Claim 18, Freeman teaches a buckle/snap (Freeman Fig. 3 #14b).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 19, and 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,308,629 to Freemon in view of U.S. Patent No. 5,647,378 to Farnum.

Regarding Claims 20-23 and 26, Freemon teaches a method of holding an child in a desired position while in water (Freemon abstract second line, and Col.3 line 21-36) with a device comprising releasably attaching a restraint device (Freemon Fig. 2 #12) to a torso of the child in order for at least one strap of the device to be circumferentially wrapped around the torso and so that a handle (Freemon Fig. 3 #20) attached to the at least one strap extends laterally away from the strap so as to provide an opening into which fingers can be inserted and is positioned at or near a central balancing plane of the child's body between the child's head and buttocks and so that a portion thereof extends laterally away from the child's body to facilitate gripping of the handle.

Freemon teaches for use in water to use a hand to restrain the child in a particular position, but is silent on the water explicitly being a bath. However, Farnum teaches a restraint designed to be used when bathing (Farnum Col. 2 line 31-32). It would have been obvious to one of ordinary skill in the art to modify the teachings of

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Freemon of water with the bath water of Farnum at the time of the invention since the modification is merely a known alternate water environment i.e. simply the substitution of one known water element for another to obtain predictable results to ensure safety of a child in known alternate water environments.

The method steps of the instant claims are readily apparent during the operation of the device of Freemon. Examiner takes official notice that the method steps are known to those skilled in the art, sponge baths conducted by either a nurse to a patient or a mother to a child inherently involves providing support to the patient/child with one hand and washing with the second hand when the bath is conducted by one nurse or one mother alone. The mother or nurse would inherently at some point during the bath grip the handles with a hand to support the child when washing a particular region of the body.

Regarding Claims 19, 24 and 25, Freemon as modified teaches releasably attaching a second handle on a side of the child's body opposite the handles so that the second handle is positioned near or at the central balancing plane of the child's body and gripping both handles while lifting the child in or out of the basin (Farnum Fig. 2; Col. 1 line 31-32, Col. 2 line 31). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Freemon with the teachings of Farnum at the time of the invention since the modification is merely the duplication of a known element for a multiple effect for the known advantage of lifting as taught by Farnum.

Regarding Claims 1, 2, 3, 7, 8, Freemon teaches a restraint device for use in holding or restraining a child in a desired position (Freemon abstract second line; Col. 3

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line 21-36), comprising: a handle (Freemon Fig. 3 and 4 #20) configured to be gripped by a person's hand; and a corset or harness (Freemon Fig. 2 #12) for attaching the handle adjacent to a child's body so as to lie on a central balancing plane that bisects the child's body into two halves during use, the corset or harness having an upper edge and a lower edge opposite the upper edge, the corset or harness being configured so that at least one handle lies next to a child's body or clothing while the restraint device is worn so that a hand gripping the handle remains close to the child's body during use and so that at least a portion of the hand gripping the handle is disposed between at least a portion of the handle and the child's body, the handle having a loop that is secured and positioned relative to the corset or harness along a single line that extends transversely between the upper and lower edges of the corset or harness so that a hand gripping the handle is positioned adjacent to the corset or harness at least partially between the upper and lower edges, the handle being sized so as to allow insertion therein of at least three fingers of a person using the device to hold or restrain a child, the handle extending laterally away from a surface of the corset or harness so as to provide an opening into which a person can readily insert fingers without spreading the handles apart from the corset or harness, at least one handle being permanently attached to the corset or harness to prevent inadvertent detachment of the at least one handle from the corset or harness to protect a child from being accidentally dropped during use of the restraint device.

Freemon is silent on the handle being a pair of opposing handles that are spaced-apart so as to lie on opposite sides of a child's body during use, each configured

to be gripped by a person's hand; and a corset or harness for attaching the pair of opposing handles adjacent to a child's body on opposite sides of a child's body so as to lie on a central balancing plane that bisects the child's body into two halves during use. However, Farnum teaches a restraint device for use in water that has opposing handles positioned on opposite sides of the corset and lie on a central balancing plane that bisects the body (Farnum Fig 1). Since Freemon teaches a vertical and lateral handle on the restraint (Freemon Fig. 3 #20) the modification is merely the duplication of a known element for a multiple effect [*In re Harza*, 274 F.2d 669, 671, 124 USPQ 378, 380 (CCPA 1960)] to provide more surface area to hold on to the child. Farnum teaches the known concept of placing handles of a restraint on opposite sides of the body; therefore, the modification is merely the placement of the multiple handle in the location taught by Farnum. Farnum is merely cited to teach the known location of opposing handles, where Freemon already teaches the structure and configuration of the handle. It would have been obvious to one of ordinary skill in the art to modify the teachings of Freemon with the teachings of Farnum at the time of the invention for the advantage of lifting the body wearing the corset as taught by Farnum (Farnum Col.1 line 31-32 and abstract). The modification is merely the combination of known prior art elements according to known methods to yield predictable results and the use of a known technique to improve similar devices in the same way.

Regarding Claim 4, Freemon as modified teaches a plurality of straps that at least partially wrap around a child's limb or torso (Freemon Fig. 3 #16 and 18).

Regarding Claims 5 and 6, Freemon as modified teaches a fastening device buckle/snap (Freemon #14).

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,308,629 to Freemon in view of U.S. Patent No. U.S. Patent No. 4,717,056 to Carmichael.

Regarding Claim 27, Freemon teaches a restraint device for use in holding or restraining a child (Freemon abstract second line; Col.3 line 29-36) in a desired position, comprising: a flexible corset or harness (Freemon Fig. 2 #12) sized and configured so as to wrap around at least a portion of a child's body; at least one fastener (Freemon Fig. 3 #14) connected to the corset or harness that permits selective fastening and unfastening of the corset or harness around at least a portion of the child's body; and a releasable handle (Freemon Fig. 3 and 4 #20), configured to be gripped by a person's hand, positioned next to the child's body or clothing adjacent to the child's spine or sternum so that a hand gripping the handle (Freemon Col.3 line 21-36) remains over the child's spine or sternum when the restraint device is in use and so that at least a portion of the hand gripping the handle is disposed between at least a portion of the handle and the child's body.

Freemon teaches each end of the handle is permanently and independently secured to the corset (Freemon Fig. 3 top and bottom end of #20), but is silent on the releasable handle comprising: a pair of straps, each having a first end permanently and independently attached to the corset or harness along a single line that extends

transversely between upper and lower edges of the corset or harness, that may be selectively connected and unconnected and that form a loop when selectively connected that is attached along a single line that extends transversely between upper and lower edges of the corset or harness so that a hand gripping the loop is positioned adjacent to the corset or harness at least partially between the upper and lower edges; and releasable and re-connectable attachment means, attached to second ends of the straps opposite the first end, for selectively connecting and un-connecting the pair of cooperating straps so as to selectively form and un-form the loop. However, Carmichael teaches that it is old and notoriously well-known to provide adjustable handles that selectively connect and unconnect with an attachment means (Carmichael #38; Fig. 2 #37, 36, 38). It would have been obvious to one of ordinary skill in the art to modify the handles of Freemon with the attachment means of Carmichael at the time of the invention for the known advantage of making the handles adjustable in size to accommodate different size hands comfortably. Merely modifying to make a known element adjustable does not present a patentably distinct limitation over the teachings of the cited prior art of record [*In re Stevens*, 212, F.2d 197, 198, 101 USPQ 284, 285 (CCPA 1954)]. The modification is merely the combination of known prior art elements according to known methods to yield predictable results and the use of a known technique to improve similar devices in the same way.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,308,629 to Freemon in view of U.S. Patent No. 4,396,013 to Hasslinger.

Regarding Claim 29, Freemon teaches a restraint device for use in holding or restraining a child (Freemon abstract second line; Col. 3 line 29-35) in a desired position, comprising: a flexible corset or harness (Freemon Fig. 2 #12) comprising one or more straps sized and configured so as to wrap around at least a portion of a child's body; at least one fastener (Freemon Fig. 3 #14) connected to the corset or harness that permits selective fastening and unfastening of the corset or harness around at least a portion of the child's body; a central balancing handle (Freemon Fig. 3 and 4 #20), configured to be gripped by a person's hand, attached to the corset or harness in a manner so that the handle has a loop, substantially all of which is disposed and extends vertically between upper and lower edges of the flexible corset or harness, so as to be positioned next to the child's body or clothing and so as to lie on a central balancing plane of the child's body that bisects the child's body into two halves and passes through the child's spine and sternum and at least partially between the child's head and buttocks so that a hand gripping the handle remains close to the child's body and lies on a central balancing plane of the child's body when the restraint device is in use. **Optionally,** an opposing balancing handle positioned on an opposite side of the flexible corset or harness so as to also lie on the central balancing plane but on an opposite side of the child's body during use, the optional opposing balancing handle having a loop, substantially all of which is disposed between the upper and lower edges of the flexible corset or harness, such that the restraint device consists of either one hand gripping handle consisting of the central balancing handle or two hand gripping handles consisting of the central balancing handle and the opposing balancing handle (applicant

has used the language “OPTIONALLY” which means that the second handle is not a required limitation).

Freemon is silent on at least one of: one or more strips of a cushioning material disposed on at least a portion of an inner surface of the one or more straps so as to shield and protect soft, sensitive skin of a baby or young child from the one or more straps when in use, the cushioning material comprising at least one member selected from the group comprising fleece, felt, other soft and flexible fabrics, silicone, other polymeric gel materials, polyurethane foam, and other soft and flexible foam materials, or a friction enhancing material disposed on at least a portion of an inner surface of the one or more straps so as to decrease the tendency of the restraint device to move in an unwanted fashion relative to the child's body when in use. However, Hasslinger teaches a corset/harness restraint device that has a cushioning material disposed on at least a portion of an inner surface of the strap selected from the group of soft and flexible foam materials (Hasslinger Col. 5 line 18-37). It would have been obvious to one of ordinary skill in the art to modify the teachings of Freemon with the teachings of Hasslinger at the time of the invention to enhance wearability of the corset and to provide slip-free characteristics as taught by Hasslinger (Hasslinger Col. 5 line 30-35). The modification is merely the combination of known prior art elements according to known methods to yield predictable results and the use of a known technique to improve similar devices in the same way.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,308,629 to Freemon in view of U.S. Patent No. 5,647,378 to Farnum as applied to claim 1 above, and further in view of U.S. Patent No. 5,007,413 to Thune.

Regarding Claim 9, Freemon as modified is silent on a head restraining system configured to restrain a child's head in a desired position relative to the child's body when the restraint device is in use that engages at least a portion of a child's skull region. However, Thune teaches a head restraint system (Thune Fig. 2 #11, 12) comprising a concave region configured to receive at least a portion of the child's skull in order for the head restraint system to securely restrain that is configured to attach to a child's head and restrain the child's head in a desired position. It would have been obvious to one of ordinary skill in the art to further modify the teachings of Freemon with the teachings of Thune at the time of the invention for the advantage of immobilizing the head in a first aid response as taught by Thune (Thune abstract). The modification is merely the combination of known prior art elements according to known methods to yield predictable results and the use of a known technique to improve similar devices in the same way.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,308,629 to Freemon in view of U.S. Patent No. 5,007,413 to Thune.

Regarding Claim 17, Freemon is silent on a head restraining system configured to restrain a child's head in a desired position relative to the child's body when the restraint device is in use that engages at least a portion of a child's skull region.

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However, Thune teaches a head restraint system (Thune Fig. 2 #11, 12) comprising a concave region configured to receive at least a portion of the child's skull in order for the head restraint system to securely restrain that is configured to attach to a child's head and restrain the child's head in a desired position. It would have been obvious to one of ordinary skill in the art to modify the teachings of Freemon with the teachings of Thune at the time of the invention for the advantage of immobilizing the head in a first aid response as taught by Thune (Thune abstract). The modification is merely the combination of known prior art elements according to known methods to yield predictable results and the use of a known technique to improve similar devices in the same way.

Allowable Subject Matter

Claim 28 is allowed.

Response to Arguments

Applicant's arguments with respect to claims 1-13, 16-27, and 29 have been considered but are moot in view of the new ground(s) of rejection.

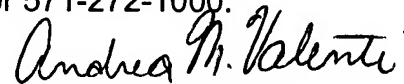
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Andrea M. Valenti
Primary Examiner
Art Unit 3643

01 August 2007